



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA FED EX

APR 15 2009

Mr. Henry W. Nehilla, President
D.C. Materials, Inc.
6860 Commercial Drive
Springfield VA 22151

RE: **Request to Show Cause**, Regarding Violations of the
Resource Conservation and Recovery Act at
25 Potomac Avenue SE, Washington, DC

Dear Mr. Nehilla:

This letter references an ongoing investigation by the United States Environmental Protection Agency, Region III, ("EPA") with regard to the underground storage tank (UST) at the **D.C. Materials, Inc. ("D.C. Materials")** facility located at **25 Potomac Avenue SE**, Washington, DC (the "Facility"). EPA has determined that D.C. Materials has violated certain requirements of Subtitle I of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§6991-6991m, and the District of Columbia's federally authorized underground storage tank ("UST") program set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*

POTENTIAL VIOLATIONS

On June 27, 2008 EPA conducted a Compliance Evaluation Inspection of the Facility to determine compliance with Subtitle I of RCRA, 42 U.S.C. §§6991-6991m, and District of Columbia's federally-UST program set forth in 20 DCMR §§ 5500 *et seq.* Based upon the information gathered from the Compliance Evaluation inspection, D.C. Material's reply to EPA's Information Request Letter (Reference Number 1-08-76) and EPA's ongoing investigation, EPA has identified the following violation(s):

Violation I: 40 C.F.R. § 280.41 (a) & DCMR Title 20 UST Chapter 60 (6003.2)
Failure to monitor its tank for releases every 30 days as required. for the periods:

August 2005 through December 2005,
January 2006 through December 2006,
January 2007 through June 2007 and
November 2007 through February 2008



OPPORTUNITY TO SHOW CAUSE

Section 9906(a)-(d) of RCRA, 42 U.S.C. §§691e(a)-(d), authorizes EPA to take an enforcement action whenever it is determined that a person is in violation of any requirement for RCRA Subtitle I, EPA's regulations promulgated thereunder, or any regulation of a state UST program that EPA has authorized. Under Section 90069(d) of RCRA, 42 U.S.C. §6991e(d), and 40 C.F.R. Part 19, EPA may assess a civil penalty of up to \$16,000.00 per day for each tank each day violation such tank is in violation of the regulatory requirements. Section 9005(a) of RCRA, 42 U.S.C. §6991d(a), authorized EPA, among other things, to require owners and/or operators of USTs to furnish information relating to such tanks, their associated equipment, and their contents.

Prior to issuing an Administrative Complaint, EPA is providing D.C. Materials the opportunity to confer with EPA and show cause as to why an Administrative Complaint should not be issued for any or all of the violations identified above, or why EPA should seek a reduced civil penalty in this instance. EPA request that D.C. Materials contact EPA **within twenty (20) calendar days** of receipt of this letter to address this matter.

If in the course of discussing this matter with EPA, D.C. Materials intends to submit documents or information to EPA, please be advised that D.C. Materials is entitled to assert a claim of business confidentiality covering any part of all of the information it submits to EPA pursuant to this Request to Show Cause, in the manner described in 40 C.F.R. §2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the information is submitted to EPA, EPA may make this information available to the public without further notice to D.C. Materials.

D.C. Materials must also include as part of any submission of information or documentation to EPA pursuant to this Request to Show Cause the following signed and dated certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and complete. I recognize that there are significant penalties for submitting false and/or misleading information, including the possibility of fine and/or imprisonment."

Signature: _____
Printed Name: _____
Title: _____

This "Request to Show Cause" is not subject to review by the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. §§3501-3520.

Enclosed please find a copy of the District of Columbia's federally UST program set forth in 20 DCMR §§ 5500 *et seq.* In addition, a copy of EPA's November 1990 *U.S. EPA Penalty Policy for Violations of UST Regulations* ("UST Penalty Policy") may be found on EPA's website at: <http://epa.gov/OUST/directiv/od961012.htm> . A copy of the *Amendments to EPA's Civil Penalty Policies to Implement 2008 Civil Monetary Penalty Inflation Adjustment Rule (Pursuant to Debt Collection Act of 1996), effective January 12, 2009, dated December 29, 2008* may be found on EPA's website at:

<http://epa.gov/Compliance/resources/policies/civil/penalty/penaltymod-memo.pdf>,

If you are unable to access either of these sites, or would prefer a paper copy please contact the assigned attorney.

To discuss this matter further or schedule a meeting, please contact Gary Morton at 215-814-3159, or if you are represented by counsel, please contact Rodney T. Carter, Senior Assistant Regional Counsel, of the Office of Regional Counsel at 215-814-2478.

Sincerely,



Carol Amend, Associate Director
Land & Chemical Division
Office of Land Enforcement

cc: R. Carter, Esq. Senior Regional Counsel
Office of Regional Counsel (3RC30)
G. Morton, Environmental Protection Specialist
Land & Chemical Division (3LC70)
Corporation Service Co. (Registered Agent)
1090 Vermont Ave. N.W.
Washington D.C.